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Ron Knox

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23373 7590 04/26/2010  
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EXAMINER

TEIXEIRA MOFFAT, JONATHAN CHARLES

ART UNIT

PAPER NUMBER

2863

NOTIFICATION DATE

DELIVERY MODE

04/26/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 4/14/2010 after the Final Rejection of 1/14/2010, have been fully considered but they are not persuasive.

Applicant points out that prior art Conkle fails to teach an extension means as claimed. Applicant points out that tubes 32 do not connect the sampler 24 to the inlet 30 but rather to valve 34. Although this may be the case, the examiner points out that it is a moot point. The valve and pump assemblies (34 and 36) are merely intermediate components between the tubing and the sampling, as shown clearly in figure 5. Thus the outlet, tube, and samplers are still connected.

Further, even if this were not the case, the cited figure 2 shows another set of extension means 26 (identical tubes to 32). Column 6 lines 30-31 describe explicitly that tubing connects the component 30 to sampling impinger 24. Thus, and through multiple examples and configurations, Conkle shows that it would have been obvious to one of ordinary skill in the art to attach a tube between the air inlet and sampling components.

Applicant further points out that an air tube is not an "extension means". The examiner respectfully disagrees but invites applicant to present proof that one of ordinary skill in the art would not interpret a tube to be an extension means in the context of air transport, flow and sampling. To the examiner's understanding, a tube is an extended member (i.e. it has length and its function is based upon the properties imparted by said length) which allows air to be taken from an end point remote from the opposite end point. It is remote because it is not the same location, In accordance with the commonly understood meanings of these terms.

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Finally, applicant points out that the sampling box of Conkle "rests on the ground". To the examiner's understanding, this lends evidence to examiner's assertion that the sampling is occurring "at or near ground level" as claimed.

***Information Disclosure Statement***

Applicant's information disclosure statement, filed 4/14/2010, has been reviewed by the examiner.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN TEIXEIRA MOFFAT whose telephone number is (571)272-2255. The examiner can normally be reached on Mon-Fri, from 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/jtm/  
JTM  
4/19/2010

/Bryan Bui/  
Primary Examiner, Art Unit 2863